

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

APR 05 2004

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Michael N. Milby, Clerk

In re ENRON CORPORATION
SECURITIES, DERIVATIVE &
"ERISA" LITIGATION

MDL 1446

MARK NEWBY, ET. AL.,

Plaintiffs

VS.

CIVIL ACTION NO. H-01-3624
AND CONSOLIDATED
CASES

ENRON CORPORATION, ET. AL.,

Defendants

JOE H. WALKER, et. al.,

Plaintiffs

v.

CIVIL ACTION NO. H-03-2345

ARTHUR ANDERSEN, LLP, et. al.,

Defendants

PLAINTIFFS' MOTION TO ASCERTAIN STATUS OF REMAND MOTIONS

The Plaintiffs in this action respectfully inquire of the Court as to the status of the Plaintiffs' Motion to Reconsider the Court's denial of the Plaintiffs' Motion to Remand. The Motion to Reconsider was filed August 6, 2003, the Defendants responded on August 28, 2003, and the Plaintiffs filed a brief reply on September 18, 2003. While the Plaintiffs fully appreciate the sheer enormity of the task facing this Honorable Court, they inquire as to this motion for the following reasons:

1. Plaintiff Joe H. Walker, the older of the two quadriplegic Plaintiffs, has in the past year suffered decreasing health in the form of digestive and kidney problems and osteoporosis.

He is distressed by the facts at issue in this case and is constantly seeking answers or information from counsel to give him some sort of peace of mind. Mr. Walker was also distressed by the extensiveness of the discovery schedule recently set forth by the Court, which includes numerous non-parties to this case whom the Plaintiffs affirmatively chose not to sue in order to proceed against those they believed most culpable, and desires to know whether he will be subject to the MDL discovery schedule.

2. The Plaintiffs entered agreements with most all of the Defendants in this action that Answers would not be due until a set time after the Motion to Remand was disposed of by the Court. The Plaintiffs can only properly proceed when they know how the Defendants will respond to the Plaintiffs' claims under Tennessee law.

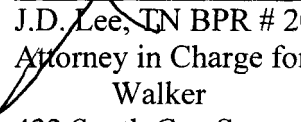
Again, the Plaintiffs understand the monumental task before the Court in managing this MDL. However, the Plaintiffs do request that the Court resolve this issue of remand as soon as possible and urge the Court to remand this case. As stated above, the Plaintiffs chose to sue only whom they considered most culpable and to proceed only under state law. The Plaintiffs made this choice to avoid the extremely difficult proof requirements of federal securities laws and because they believed that only certain parties were the true cause of the problems involved. As masters of their cause of action, the Plaintiffs also chose Tennessee State Court as the forum in which to bring their Complaint. While the Defendants may have had the right to remove this action to the Federal Courts, the Plaintiffs submit that the Defendants lost any such rights they may have had by failing to comply with the required procedure. As such, the Plaintiffs should not be forced to wait while depositions are taken and exhibits gathered that are extraneous to this instant cause of action. Such delay, while inevitable in the MDL context, harms the Plaintiffs

and inures to the benefit of the Defendants. The Defendants should not be able to enjoy this benefit when they did not follow the proper removal procedures to get into the Federal Courts.

For the foregoing reasons, the Plaintiffs respectfully request that the Court inform the Plaintiffs as to the status of their Motion to Reconsider.

Respectfully submitted this 29, day of March, 2004,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this document has been sent to the below-listed parties by way of the U.S. Mail.

This 29 day of March, 2004



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